

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Executive Board
February 20, 2009

[LB16 LB620 LB653]

The Executive Board of the Legislative Council met upon adjournment on Tuesday, February 20, 2009, in Room 2102 of the State Capitol, Lincoln, Nebraska. Senators present: John Wightman, Chairperson; John Nelson, Vice Chairperson; Deb Fischer; Mike Flood; Russ Karpisek; Chris Langemeier; Rich Pahls; Tom White; and Lavon Heidemann. Senators absent: Mark Christensen. Also present: Mike Calvert; Patrick O'Donnell; Joanne Pepperl; and Scott Harrison. []

SENATOR WIGHTMAN: (Recorder malfunction)...of the Executive Board of the Legislative Council. I would like to introduce the members of the Executive Board and the board staff, and then briefly explain the procedure we will be following this afternoon. First, to my right is: Janice Satra, legal counsel of the board; to her right is Senator John Nelson from Omaha, Vice Chair of the board; to his right would be Senator Karpisek from Wilber whose not here at the present time; to Senator Karpisek's right, if he were here, is Speaker Mike Flood from Norfolk; Senator Christensen would be seated to his right and he's absent today; and to the far right is Senator Lavon Heidemann from Elk Creek. I'm Senator John Wightman. I serve as Chair of the board. To my left is: Jessica Shelburn, committee clerk; to her left is Senator Chris Langemeier from Schuyler; to Senator Langemeier's left, Senator Rich Pahls from Omaha; Senator Pahls' left is Senator Deb Fischer from Valentine; and to her left is Senator Tom White from Omaha. We will first hear testimony from the introducer of the bill followed by those in favor if it, and then testimony in opposition. And finally we will hear from those who have neutral testimony. We do have some letters of support and in a neutral capacity that we will place into the record as well. We welcome anyone to testify, but they ask that you not be repetitive and that you try and keep your testimony to about three minutes. Sign-in sheets are available at the testifier table. Please fill the form out completely before you come up and hand it to the page before you begin your testimony. This will help us provide the transcribers an accurate record. When you testify, please state your name and spell it slowly for the record. If you plan to testify, please come up to the front row...well, it looks like we can't do that very well. It looks like the front row is pretty well taken. There is also a form available for those of you who may wish to support or oppose a bill but who do not want to testify. This form will become part of the official record. This form can also be found at the testifier's table. If you have printed materials please give them to a page so that they can be distributed to the members of the board. We need 15 copies of any materials, so if you do not have enough copies, the page can assist you in making additional copies. Finally, I would ask that you to turn your cell phone off or put it on silent or vibrate. The first bill we will hear today is LB16. Just for the record, can we have a show of hand of those who would plan to testify for the bill, besides the introducer of the bill? Okay. We have two testifying in favor. Do we have anyone who would... []

_____: Did you say testifying (inaudible)... []

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SENATOR WIGHTMAN: What? []

_____: Can you repeat your question? []

SENATOR WIGHTMAN: I was just asking for a show of hands of those that would testify in favor of LB16. Were there two? I counted...oh, none on that bill. Anybody that will testify in opposition to it? I know we do have one in opposition to it. We do have. Anybody that would testify in a neutral capacity on that bill? Okay, so one in opposition, two in a neutral capacity. We do have some letters in support and maybe some that are in a neutral capacity. So with that, Senator White, would you present the bill? [LB16]

SENATOR WHITE: (Exhibits 1, 2) I'm Tom White, W-h-i-t-e. I am the senator representing District 8, and I am here to introduce LB16. Thank you, Mr. Chairman, members of the committee. LB16 is very simple in concept, and based on the experience of other states, very simple in execution. LB16 would require that all expenditures of the state, whether they are in the form of appropriations or in the form of tax incentives, be made transparent and readily available to members of the public. It would ask and require that the Legislature, which initiates these programs, be responsible for setting up a Web site, and on that Web site effectively doing the following: First, putting our appropriations information on-line and then our Revenue Committee information on the tax revenue matters that we pass, the fiscal information on-line. Then it would require various agencies of the state government to provide to us information regarding how they have expended the funds that they have received from us so that any citizen with access to a computer can track the public's money as it moves through the system. There have been concerns raised by a number of parties on expense, on privacy issues, on the burden on the state. This bill was drafted on a form provided by the American Legislative Exchange Council, ALEC. And next to that...and you will have in the record and I'd offer for the record if necessary a copy of ALEC's letter in support. That is bookended by a letter in support from the American Civil Liberties Union. It is seldom that you will see support for one bill from two organizations who frequently are in opposition on legislation. But they joined in support of this one because the bill is a good idea. What the bill does is promote transparency and responsibility and integrity in the expenditure of public funds. ALEC's letter is particularly informative because it tells you how effective this has been at reducing waste and fraud and saving money, and also how inexpensive it has been in the states that have actually implemented it. One of the folks who will testify in a neutral capacity, I had an opportunity to discuss with today, will talk about the technological capabilities of computers and what this can be done. And perhaps even more interestingly since he's from IBM that their knowledge of the federal stimulus bill indicates that there should be approximately \$24 million designated to Nebraska that would be very much eligible for use for exactly this type of purpose. So to the extent there is expenses, we can expect federal money will be available for us to appropriate to follow up on this. I do want the

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committee to know I will work on reasonable amendments. Although the concept of having all expenditures both tax, credits, and appropriations is essential to the integrity of this bill. It is essential that the public be able to get this information and on a readily accessible matter. I would urge you to recognize that at this point in time all of the information that we would require is available to the public anyway through sunshine law and other laws and could be forced to be revealed. What this does is simply make the process much less expensive and democratic so that our citizens can truly follow what we do. And I'd like you to know that after two years here I am convinced that the more open our process is, the more the citizens will support our work. We run a lean, efficient, and very honest government here. And when people can come behind the doors and see it they'll recognize that. I ask your support for this. I remain willing to talk to you about various concerns, but the need is great. And I would tell you right now that the Treasurer is doing this in part, but he's not doing it completely and it's not required in statute nor do I think it is in the best interest of the Legislature which initiates all these programs, makes the spending decisions, that any other branch of government characterize what we do. It is for us to put forward to the public as the body closest to the public, and that would...this bill then would require that the Clerk of the Legislature do that. I do support amendments in concept that we'll talk about that the Executive Committee should set various regulations working over the Clerk's Office for day-to-day implementation of the bill. And I thank you and I'd try to answer any questions. [LB16]

SENATOR WIGHTMAN: Senator White, I think since you have mentioned the two letters from ALEC and ACLU I think we will enter those into the record. They are both in support as I understand it. We'll enter those into the record at this time rather than at the end of the testimony, so. With that, I have a couple of questions. I know you and I have discussed this bill somewhat. With regard to the stimulus bill, is that clearly spelled out because I heard that from you this morning but I had not heard it previously. [LB16]

SENATOR WHITE: Yeah. I have not read the actual language. That's an interpretation, Senator, and that is based on discussions with a representative of IBM whose exec met with the President to talk about provisions that should be included so there could be long-term improvements in government, the delivery of services using advanced informational technologies. So I think we'll hear more from the neutral testimony with regard to this. Second, even if the cost isn't borne by the federal government and I believe it will be or the fund money will be available, if you look at the price as discussed in the ALEC letter, it is nominal. I mean, we are talking about...they stated that in Oklahoma they had budgeted \$300,000 was the fiscal and it actually cost \$8,000 plus staff time. So the actual cost in the experience of our fellow states that have implemented, the same basic bill has been nominal. But the gains have been profound. If you look again at the ALEC letter, the money saved by Texas that they attribute to this program has also been substantial. I think they indicated that Texas saved over \$8 million if I recall properly from the use of it. So I think this is something that can be easily justified on a fiscal basis. [LB16]

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SENATOR WIGHTMAN: Now with regard to the fiscal note, we have a fiscal note indicating it'd be higher than \$50,000 and more likely in the \$100,000. You're familiar with that I guess. [LB16]

SENATOR WHITE: Yes. And I think again, one, if the...I do think there will be federal money to completely defray it and, two, given the experience of Oklahoma and other states, those notes have uniformly been overstated. In the actual implementation it's been far less expensive. [LB16]

SENATOR WIGHTMAN: And the \$24 million is just in Nebraska. [LB16]

SENATOR WHITE: Yeah. What it is, is my understanding is that based on, again, it's a discussion, my understanding, not an actual...I did not actually read the stimulus bill yet. But the 3 percent of the funds earmarked to Nebraska which have been discussed at \$1.1 billion roughly are available for this kind of information improvement. And that would include...that would be the \$23 million roughly out of that section that would be available for this kind of an improvement. [LB16]

SENATOR WIGHTMAN: Thank you. Are there other questions? Senator Pahls. [LB16]

SENATOR PAHLS: Senator White, I'm trying to visualize this. Is this eventually the end result? And I'm going to go back to your district. If all this money, tax is reported back and eventually I will be able to look at the high school in your area and see...because if they're getting state aid, I should be able to...this should be like the roots of tree, I should be able to see all the tax dollars that are going...I mean, (inaudible)... [LB16]

SENATOR WHITE: Well, yes, Senator. And more interestingly, I thought Omaha Public Schools had intended to be here. I don't know if Mr. Lindsay is here, but they had been advised to support this. They, in fact, have this in place now. They have a Web site and I spoke to Doug Kagan, Taxpayers for Freedom, hardly what you'd call normally a fan of OPS, and he said the Web site is incredibly helpful, it's clear, it is very transparent. So OPS is already actually doing it. So you could actually track our money to OPS. Then on OPS's Web site, not on ours, you could track it all the way down to the last nickel. So what it would do in our situation though is we'd follow the appropriations level, and that would be our information. And then let's say it's Health and Human Services, they would have an obligation to report back to us how they spent the money, and we'd add it. They'd put it in electronic form, we would set the regulation obviously, the clerk would take that information, put it in our Web site and a citizen or you or I, for example, if we wanted to see how they spent the money we appropriated, could then go on it and track the money through. [LB16]

SENATOR PAHLS: Okay. So you're telling me right now that Benson or the elementary

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school right there on Maple, if you would go to that Web site you could see how many dollars are being spent, let's say, on maintenance? [LB16]

SENATOR WHITE: If you go to OPS's Web site right now, you can go through their entire budgetary process. [LB16]

SENATOR PAHLS: Okay. [LB16]

SENATOR WHITE: Yeah. [LB16]

SENATOR PAHLS: And it goes...I mean, I've not (inaudible)... [LB16]

SENATOR WHITE: I don't know how far the OPS's goes down to, but I can tell you the people who spend time on it, Doug Kagan and those guys, are quite satisfied with it. [LB16]

SENATOR PAHLS: Okay. So you're just looking for this actually to follow up to where we're at. [LB16]

SENATOR WHITE: What I'm really looking is that the state be transparent as well. In other words, that when we make an appropriation of money and we spend any money and it goes first of all that the Legislature, where we took their money, where we appropriated it, how we divvied it up, what agency has got it, for what purposes we appropriated it, which is just the appropriations bills functionally, those go on-line. And then the agencies say, okay, you got this amount of money, how did you spend it, that they then file electronic reports. Now, we can do it on different levels. We have it at the end of the...the dates will have to be adjusted. We have it 30 days following the close of fiscal year. But you will hear testimony that, in fact, it's quite possible to make it real time, that literally as they write checks the public could follow it. Whether that's necessary or not, I'm not taking that position. But it's technologically...we can invite democracy on a level and should invite democracy into our state government on a level we've never seen before and complete transparency. [LB16]

SENATOR PAHLS: So then on bid in buying some large, I'm just going to say a piece of equipment, you can actually...I would be able to see that. [LB16]

SENATOR WHITE: Oh, yeah. You would be able to see it. Well, it depends on what we'd choose to require them to do it, but certainly who got a bid, what it was bid for. I mean, could we ask, okay, what did, I don't know, the Department of Education spend on computers and who got the contract and how much? Absolutely, absolutely. We'd be able to go to that. And in fact you can do that now, I mean, through...it's a very cumbersome and expensive legal process that really only the papers can afford to do, you know, or a few news organizations generally will do it, but you can do it. I mean, the

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public has a right to this information, it's all public anyway. [LB16]

SENATOR PAHLS: Right, but I also have gone to some of these Web sites, and since you've brought the Department of Education have a great Web site. However, sometimes you get lost in it. [LB16]

SENATOR WHITE: And that's one of the reasons why it needs to be...and we talked about whether...I talked with Senator Wightman before about a URL just sending you over to Department of Education would be sufficient. In talking to ALEC, talking to other people who worked on this, it doesn't work that way because what our obligation, the Clerk of the Legislature's obligation is to make it transparent and user friendly. And that's quite possible and it's affordable to do. But the point of it...the thrust of it is, every citizen ought to be able to see where every dollar is spent. Now, we may have considerations at some point of is it under \$50, we don't, you know, go to that detail. Those are the kinds of things I would suggest that the Executive Committee work through direction if the bill goes through with the Clerk of the Legislature's Office on the smaller stuff. But certainly on the bigger stuff, it should all be available. [LB16]

SENATOR PAHLS: Thank you, Senator. [LB16]

SENATOR WIGHTMAN: Senator Nelson. [LB16]

SENATOR NELSON: Thank you, Mr. Chairman. Senator White, I've looked through LB16 just kind of quickly here. I'm taking a look at the letter that's been admitted from the Department of Revenue. First paragraph, LB16 would create another exception for confidentiality in the state income tax information for any... [LB16]

SENATOR WHITE: They have not graced me with a copy of that letter, Senator. [LB16]

SENATOR NELSON: Oh, you don't have a copy of that? [LB16]

SENATOR WHITE: No. [LB16]

SENATOR NELSON: Well, then let me ask you a question. [LB16]

SENATOR WHITE: The Department of Revenue sometimes does that. [LB16]

SENATOR NELSON: Okay. It appears to me that individual tax refunds to individual taxpayers would be included in this report, is that correct? [LB16]

SENATOR WHITE: I don't think it should be on at that level and certainly we can correct on confidentiality. If you look at the language, I think there's language in here that it should be confidential on stuff that is otherwise confidential. On individual tax amounts

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have normally been confidential. However, I would say on LB775 and those kind of things, the larger amounts where we now have sunshine clause, that should be public. If you look on page 12, line 15: A taxpayer's identification number and the nature, source, amount of his/her income, payments, receipts, deductions, exemptions, credits, liabilities, net worth, tax liability, tax liability withheld, deficiencies, overassessments, or tax payments, whether the tax return was or not. That is all confidential. So if that means refunds should be added to that long list and was not because it's inadvertent, then, of course, we add that. [LB16]

SENATOR NELSON: Well, then you'd agree there's no need for the under transparency to know what individual refunds are going back to the taxpayers. [LB16]

SENATOR WHITE: Right, and if you look at it, that's clearly the thrust of the bill, Senator, if you look at page 12, line 15 on. Now, I would say that when we're offering tax incentives, you know, through the big corporations and those kind of things, we don't need to have their tax return public. It should not be. That should be protected. But certainly we...the state spends money two ways, Senator. We spend it through appropriations and we also spend it through revenue tax breaks. I mean, and that's why we have fiscal notes on the tax breaks. That should be transparent on who's getting that kind of money from the state and how. Certainly, though, the rest of their tax information should not be. That has traditionally been confidential and it should remain confidential. [LB16]

SENATOR NELSON: Thank you, Senator. [LB16]

SENATOR WIGHTMAN: Other questions? Senator Heidemann. [LB16]

SENATOR HEIDEMANN: I'm trying to a little bit like Rich trying to get my mind around this a little bit. And the one question I'm going to ask, like, we have the property tax credit relief program. [LB16]

SENATOR WHITE: Right. [LB16]

SENATOR HEIDEMANN: One hundred fifteen million dollars a year. [LB16]

SENATOR WHITE: Correct. [LB16]

SENATOR HEIDEMANN: This money goes to counties to make up for lost property tax because of the program that we have. The Web site will track that down to the county level. [LB16]

SENATOR WHITE: Yes. It'll track it down, hopefully it'll track it down to the county level and how much we're paying those counties. We can track it now, Senator. Basically I've

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been able to, for example, tell you how much, approximately, but how much Ted Turner got. I mean, that stuff is information that's public now. [LB16]

SENATOR HEIDEMANN: But what would this Web site take it down to? Would it take it down to that county level or will it take it down to the people that receive the property tax credit, money from the property tax credit program? [LB16]

SENATOR WHITE: Well, it would take it down to the county level and it will tell you per acre certainly how much it would do it. Since it's not a check being written, it's being written to the county. You know, for example, it's a homestead exemption or it's being written to the county in lieu of it. That's probably where it would stop. [LB16]

SENATOR HEIDEMANN: It stops there. Okay. That's what I need to know. [LB16]

SENATOR WHITE: Yeah. I mean, you don't have to go and create more paperwork, you just have to say where it's at. A member of the public who then wants to know who got what on that has the information because he knows he can then find out, okay, how many acres does a person own under that land, what's the valuation, and you can calculate what they got anyway. And you can do that now. This just makes it easier and more accessible to get to the level to the county. [LB16]

SENATOR HEIDEMANN: Okay. Thank you. [LB16]

SENATOR WIGHTMAN: Any other questions? [LB16]

SENATOR WHITE: Thank you for your courtesy. [LB16]

SENATOR WIGHTMAN: Thank you, Senator White. [LB16]

SENATOR WHITE: And I will, if necessary, close. If there's nothing substantial raised at that time I'll waive it. Thank you. [LB16]

SENATOR WIGHTMAN: Okay. Thank you. Anyone else in favor of the bill? [LB16]

JOHN LINDSAY: Thank you, Senator Wightman, members of the committee. For the record, my name is John Lindsay, L-i-n-d-s-a-y, appearing as a registered lobbyist on behalf of Omaha Public Schools. When I was first reviewing the bills this legislative session, this was one I did not call attention to, to my clients...call to my clients' attention. It's one that they saw on their own and thought this makes sense. What we do and I heard mention about our Web site, which by the way, Senator Pahls, I don't know if we can get school-by-school information. I'm checking on it. I would welcome you to take a look. It's www.ops.org, and we'll find out that for you. But the...our thought process as my district explained to me was we try to put as much financial data on the

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Web site budgetary process because the view being the more people understand where our dollars are going generally the more supportive they are of it, because they understand there's a process behind it where we thought out why dollars are going to particular programs and we think we can defend those policies. When we looked at this our thought went to TEEOSA spending which is the same kind of a rationale that the Education Committee puts a ton of work into figuring out the different details of TEEOSA. And our view is that the more people understand TEEOSA the more they'll understand the Legislature's rationale behind it and would be more supportive of it. So we think that having this kind of access at a state level where eventually it'll lead you to information on government throughout the state just seems to make a lot of sense. I guess one additional item is that it is...this branch of government, the legislative branch of government that is responsible for spending in the state. Decisions are made here about you can't spend money unless this Legislature appropriates it. And so it does seem to make sense to have it within the legislative process to have that kind of data available to the public. So with that, we'd ask for at least conceptual in support of the bill and be happy to answer any questions. [LB16]

SENATOR WIGHTMAN: Mr. Lindsay, legal counsel is asking you if you filled out a testifier sheet. [LB16]

JOHN LINDSAY: I just picked one up to fill out, didn't want to do it while I was talking. [LB16]

SENATOR WIGHTMAN: Okay. You will leave it off though that we have a record. Other questions? Any questions? Let me ask you with regard to the sites. Now, I know the bill and Senator White and I have discussed this quite a bit. It says for every item of expenditure it lists in A through G that you would list as to every item of expenditure. Do the ones that are filled out by schools that you represent, are they that detailed so that if you gave a \$10 check...now, I know we could put a limit on that, but if you gave a \$10 check to somebody, would that require all of these items for every check that was written out? [LB16]

JOHN LINDSAY: Honestly I couldn't answer that. And I should have gone, played around with the Web site before I came over. [LB16]

SENATOR WIGHTMAN: And that's one of my concerns over the bill and I've expressed this to Senator White is the amount of detail that would appear to be required with regard to every item of expenditure, and I'm just wondering if other entities that are making this disclosure under transparency rules are that detailed. [LB16]

JOHN LINDSAY: I just took a quick glance. I think most of that is. There may be I think the descriptive question may not be for each program, but it does separate out. I don't know how far down it goes. I mean, Senator Pahls's question on a building-by-building

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breakdown is a legitimate question that would probably get to the heart of what you're asking is how detailed or how far down you go. [LB16]

SENATOR WIGHTMAN: Right. And that could well affect the fiscal note if staff members from every department were to have to comply with this much detail, I suppose. Where categorizations of various expenses might be fairly easy, that much information with regard to each check that was written by the entity would get to be pretty burdensome I would think, but. [LB16]

JOHN LINDSAY: Well, I think I could safely say we don't do it by each check or warrant, we don't go that far down in detail. I think that is a policy question for the Legislature about how far you go. [LB16]

SENATOR WIGHTMAN: Right. Thank you. Other questions? Thank you for your testimony. Anyone else testifying in favor of LB16? Anybody testifying in opposition? [LB16]

RON SEDLACEK: Good afternoon, Chairman Wightman and members of the Executive Board of the Legislative Council. My name is Ron Sedlacek, that's R-o-n S-e-d-l-a-c-e-k. I'm here today on behalf of the Nebraska Chamber of Commerce. Our concerns really regarding LB16 center only on one particular portion of the bill. And that's Section 1(5)(d), essentially the economic development programs that are listed therein and the particular affect. We do not testify and we don't have a position on the remainder of the bill at this point. In fact, there may be...we may be supportive of a lot of the provisions of the bill outside of this particular area and I'll explain why. And I do appreciate Senator White's remarks in his introduction and understanding the preservation of confidential information as well as...but at the same time promoting some form of transparency. And we must be pretty independent here because we're testifying against an ALEC bill at this point as well as an ACLU bill. However, what we'd like to share with the committee a little bit as background information on how we got to where we are today in regard to the transparency issues involved with the Nebraska Advantage Act and so forth. One of the...kind of the thorns in the side of LB775 that was eventually addressed at one time when those bills were first passed there was no transparency essentially whatsoever. And little by little there were areas in which there was more and more disclosure which was fine. Our goal always was not to provide enough information where essentially trade secrets or competitive information, the planning and so forth of a company cannot be detected, particularly by competition. And that would reveal some sort of trade secrets, marketing secrets, and so on. That was the concern. But over the years there were, I believe if I recall, three legislative bills in total that got us to where we were with LB775. When it came to the Nebraska Advantage Act and the formulation of LB312 which was the core bill, we spent a considerable amount of time. The topic of confidentiality and competitive intelligence was a central issue. And that was probably of all the issues it was either the most time consuming issue in trying to formulate LB312

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and negotiating with Senator Landis and the Revenue Committee. We all knew that we wanted more transparency, and that was not really the issue. The issue was to what extent and how far and what damage it could potentially do. That was always the consideration. And so as they say, I appreciate your concerns in that regard, Senator. But at least...although it was a roadblock in the beginning we came up with the system we have today, and we still had quite a few of our economic developers second-guessing us and criticizing as far as we went and how there potentially could be vulnerabilities within the current system. Regardless, what we're doing here is essentially returning to that original discussion on confidentiality that we worked so many weeks and weeks on, months on actually in the LB312 discussion. What information is available to your business...about your business? What impact does it have on competitive and trade secrets and marketing secrets? And how does this affect economic development recruitment efforts within and without the state? So I asked a number of our economic development people to please review the bill and just give me some examples or give...what can be derived if you were to take the LB312 provisions and then on top of that layer, the LB16 provisions because we're dealing with two sets essentially of disclosures. And here are some of the examples I think that are tangible, and certainly I can share. I've got four or five here. I could...actually I have five. I can certainly dress this up a little bit outside of the e-mail responses I've received and submit that to the committee in the form of a letter. But if you'd like, I'd like to just take a moment review, at least a few of them, with you. For example, under LB16 a competitor would be able to see a withholding refund by quarter. So they'd be able to come up with a reasonable estimate on wages paid to new employees. It also from year-to-year would give that competitor because they're in industry groups and if they're a particularly smaller industry groups, especially those within the same industry, then some measure of year over year employment. So how could this be used? Well, you get into assumptions as I read it here. But you could take other sources of information and then the puzzle pieces would come together and start making sense. Giving a little bit more, and then quite a bit more information about that business for the competitors to take a look at. So for example, you can imagine the case of there's economic downturns and what you might be able to deduce from that information is, is their employment going up or down. If it's going up, does that portend their strategy in a down market? If it's going down, does this tell me the market is hitting them hard? So how hard? Can I use this for marketing? Another example, I'm a manufacturer and I have a competitor who has a new product on the market and my customers are talking positively about it. I see wages and employee levels increasing on the same company. I get multiple sources of information to confirm it's going on. And as it reflects then you can take a look at the quarterly reports and the employment levels and get an idea on the withholding refunds. It's not perfect, but you get some of the factors involved and get that information. Refund claims also provide insight in the type of spending. You take the refund amount and assume, let's say for a manufacturer, that much of their capital is exempt. By looking at their refund then you could deduce some of their operating expense levels. And then during the entitlement period, a company has to file separate direct and credit

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claims which provide more insight into sales tax paid on capital spending versus sales tax on expenses. And if it's a manufacturer and there's a significant amount of sales tax, then you can start making the assumptions on other spending. And at least according to this particular comment, they said then you'd be able to go to other sources and see the excessive sales tax paid on the direct claim, which would be assets. And then as they review these other sources, you'd be able to uncover as to what or what's not going on, for example, a major leaseholds and so forth. So since manufacturing program is exempt, I guess the example would be, okay, are they spending money on software, on vehicles, on whatever. What's going on here? The other examples deal with...one on property tax refund. Because the narrow definition of what's available for refund, this provides interesting input on types of purchases. This is where you keep in mind specific industries. Let's say you have a specific industry targeted by the state, a web portal or a distribution center, etcetera, via the property tax exemption. And let's assume that the attempt is to attract a company as a hot industry with other competitors also building new sites. That's probably not the kind of information they're going to want to share for competitive purposes. And so it could be a factor in their due diligence in choosing whether or not to locate here in Nebraska. For those already here in Nebraska, that information would be available as competitive intelligence. And then I understand fully well that the tax identification number and you pointed that out in your testimony is, remains confidential. That was pointed out as one of the areas where you could get information anyway. So if you could take the aggregate number, as one example says, provided by the Nebraska Advantage Act requirements for disclosure which includes income tax. You subtract all that scenario out from LB16, the assumption is you'd be left with the income tax refund and suggest that we take a very close look at that. And finally, I think I'll go ahead and just conclude without going into all these other...the fact of the matter is that there are smart, determined people out there that can take these bits and pieces of information both under the LB312 disclosures, match them with LB16 disclosures. So in regard to transparency it's not that we're saying it cannot be absolutely nontransparent and that's not what we're arguing about. It's the level and the use of the transparency itself. That's really the bottom line concern. This is an issue that Senator White wishes to continue to discuss, and we'd be happy to continue to discuss that with him and see what's workable. But I think we have to look both of the statutory scenarios together, see how it meshes, and what the result would be. And I know we certainly don't want to reveal that amount of confidential information. I don't think anybody would be (inaudible)... [LB16]

SENATOR FLOOD: I have a question for you. [LB16]

RON SEDLACEK: Yes, sir. [LB16]

SENATOR FLOOD: And I appreciate your brevity today. I would appreciate your brevity because we have to get senators to hearings at 1:30 this afternoon. But let's just sum this up with a one-word answer, Mr. Sedlacek. Does your Web site...does Senator

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White's Web site as identified in LB16, is all this information...in your opinion, is all this information available now? And I'm looking for a yes or no response without any extra elaboration. [LB16]

RON SEDLACEK: No. [LB16]

SENATOR FLOOD: Fair enough. That's something that I'm interested to learn more about then. Thank you. [LB16]

SENATOR WIGHTMAN: (Exhibit 3) Any other questions? Thank you, Mr. Sedlacek. Do we have other testifiers in opposition? Do we have other testifiers in a neutral capacity? We do have one letter, and I think before I forget that, we have a letter from the Department of Revenue in a neutral capacity, and so we will make that part of the record. And again, if you can, keep it brief, we are going to run very short of time trying to hear three bills today. [LB16]

JASON HAYES: (Exhibit 4) I will try to keep it brief. Okay. Good afternoon, Senator Wightman and members of the Executive Board. My name is Jason Hayes, that's J-a-s-o-n H-a-y-e-s, and I serve as the Deputy State Treasurer. I'm here to speak in a neutral capacity on LB16. It is the opinion of the State Treasurer that LB16 would be a duplication of a Web site that has already been created and implemented by the State Treasurer's Office. In January 2008, Treasurer Osborn launched NebraskaSpending.com, a searchable public Web site that discloses every aspect of state government spending. Currently, Nebraskans can search for state contracts over \$20,000, state expenditures over \$500,000, utilize an interactive 93-county map showing a breakdown of local property taxes and state aid information, review Nebraska's operating investment pool, as well as details of the different taxes levied by the state of Nebraska. And I have distributed handouts showing the main home page of this Web site. Data for NebraskaSpending.com was compiled from a variety of government sources such as the Comprehensive Annual Financial Report, the Annual Budgetary Report, the Investment Council, the Department of Revenue, and data pulled from the NIS accounting system for data on state contracts and expenditures. Across the country there are seven other states that operate similar transparency or state spending Web sites. They are Texas, Oklahoma, Kansas, Missouri, Minnesota, Hawaii, and South Carolina. The average cost for their Web sites was typically in the area of \$1 million. The State Treasurer's Office completed Nebraska's Web site for \$38,000. Twenty-five thousand dollars of this amount came from the records board grant and the other \$13,000 came from the Treasurer's Office. We believe the Nebraska State Treasurer's Office is uniquely qualified to operate this type of Web site. First, the Treasurer has been charged by the Nebraska Constitution to receipt and disburse state funds and to keep a just, true, and comprehensive account of all money received and disbursed. Second, unlike the Governor who serves as the chief of the executive branch or the Legislature which sets policy and has agency oversight, the State Treasurer is a

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neutral custodian of state funds. For the most part our office functions as a bank. The main objective of NebraskaSpending.com is to provide accurate information with cited sources and to not editorialize or make judgments. Our only concern is to allow average citizens the opportunity to view this information and form their own conclusions. We do recognize that Senator White is demonstrating a sincere interest in making our state government more transparent and the State Treasurer shares in that concern. The following, and I'll go briefly through this, is a list of information the Treasurer's Web site already covers that Senator White sets forth in LB16, and that's the 2007-'08 and '08-'09 budget. The Nebraska revenue for 2007: All government contracts for each state agency, board or commission; expenditures over \$500,000, the payment date and payment amount of those contracts; and information regarding Nebraska's operating investment pool. The following is a list of items on the Treasurer's Web site which is currently not mentioned in LB16: information regarding Nebraska's operating investment pool; property tax levees for all political subdivisions in all 93 counties, including their taxable value, taxes levied, and state aid from the General Fund; Nebraska's revenue sources for each fiscal year; definitions, rates, and sources of all taxes collected by the state of Nebraska; and historical graphs on Nebraska's revenue collection, taxes, cash, and federal funds. Our office is currently working on our third update of the Web site which will provide the following information: agency level expenditure reporting; updating current 2007 expenditures to 2008; adding additional historical data; creation of a county budget search database and school systems budgets. I want to reiterate that currently there is nothing in Senator White's bill that NebraskaSpending.com does not already provide except for the tax refund and credit information which is currently restricted by state statute. Moving forward, Treasurer Osborn is more than willing to sit down with anyone, be it a constitutional officer, state senator, city councilman, or even a taxpayer, to discuss how to best improve NebraskaSpending.com . And I thank you for your interest in this matter. [LB16]

SENATOR WIGHTMAN: Thank you, Mr. Hayes. Senator White. [LB16]

SENATOR WHITE: I have two questions. First of all, I note that the seal on the document you just had has Shane Osborn under the Nebraska State Treasurer's seal. Is that authorized by statute or constitution, the amended the... [LB16]

JASON HAYES: That's a separate seal that was created by the State Treasurer's Office. Similar the Attorney General also has a separate seal. [LB16]

SENATOR WHITE: Okay. So we could all put our name under the seal of the state of Nebraska? [LB16]

JASON HAYES: I would assume if the Legislature wanted to create a seal that they could do that. [LB16]

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SENATOR WHITE: And then second, the Web site is not required by statute to be created or maintained, correct? [LB16]

JASON HAYES: That is correct. [LB16]

SENATOR WHITE: And the Treasurer or a successor Treasurer could just stop doing it, correct? [LB16]

JASON HAYES: And that is a valid concern. [LB16]

SENATOR WHITE: And the Treasurer could pick and choose what to reproduce or not to reproduce on the Web site, correct? He's not required to put anything in there. [LB16]

JASON HAYES: No, would not be required to put anything in it to the extent that certainly any information that was confidential could not be put on there. [LB16]

SENATOR WHITE: Thank you. [LB16]

SENATOR WIGHTMAN: Any other questions? Thank you...I see none, thank you for your testimony, Mr. Hayes. Any other party testifying in the neutral capacity? Again, I'd remind everyone that if anyone has not filled out the testifier sheet to complete that before you leave. [LB16]

KENT KUBIE: Good afternoon, Senator. My name is Kent Kubie, K-e-n-t K-u-b-i-e, and I'd like to speak on a neutral behalf of this as a transparency as it relates to the American Recovery and Reinvestment Act. As stewards of an economic stimulus package that's going to be coming down from the federal government in the next few weeks, days, months, I don't know, having the ability for the state to actually track and show the constituents of the state where those dollars will be spent, used, and how they're being spent I think is something that we're encouraging everyone to look at. We've actually put a blueprint together as it maps to the economic stimulus package so that piece of information can be put on your current Web site from a Nebraska.gov standpoint and published out there for all the citizens to see. So I think it's an incredible amount of money that is going to be passed to each one of our states. I know that we are getting between eight hundred and \$1.2 billion, which is a tremendous amount of money for folks to take advantage of to build new jobs and infrastructure and things. And we want to make sure that that money is being spent in a judicious manner. [LB16]

SENATOR WIGHTMAN: Thank you, Mr. Kubie. I might tell you that we are in the process of working on a Web site of the Legislature to do exactly what you're talking about through the Appropriations Committee and the Executive Committee, so we are in the process of doing that. Senator Fischer. [LB16]

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SENATOR FISCHER: Thank you, Senator Wightman. Mr. Kubie, are you here representing someone today? You said, we are doing this... [LB16]

KENT KUBIE: Yes, I'm sorry. I apologize, ma'am. I work for International Business Machines, for IBM. [LB16]

SENATOR FISCHER: Thank you. [LB16]

SENATOR WIGHTMAN: Any other questions? If not, I thank you for your testimony. [LB16]

KENT KUBIE: All right. Thank you. [LB16]

SENATOR WIGHTMAN: Anyone else in a neutral capacity? If not, that will conclude our...oh, excuse me. Thank you. We will recognize Senator White to close. [LB16]

SENATOR WHITE: Thank you, and I will be quick. First of all, with regard to the expense of taking out some line items, in my business, your checkbook is literally on-line. So your expenses would probably be higher to start cutting people out, but every time you write a check, you do it electronically, it goes automatically into the computer. So that cost from the various agencies, literally their checkbooks, what they write with will be electronic, can be dumped down into the Web site. Second, the Unicameral is the one-house, second house is supposed to be the public. The public cannot function as the second house under our constitution unless it has adequate, timely information. Finally, on the secrecy aspects of the various tax incentives, there are some legitimate concerns, but they've also been overblown. For example, if I want to know how many people are being hired or not, I'll drive by their parking lot. You can tell exactly from that. So are there some changes? There may be, Senator, but we can look at those and protect legitimate business concerns. But when people do business with the public, when they take our money, they have to accept that we are an open society and accept the responsibility that we will be transparent to the public to the extent we can. Thank you for your time. [LB16]

SENATOR WIGHTMAN: Thank you, Senator White. That now concludes the testimony and the hearing with regard to LB16. We will move on to LB653. Again, we're running short on time so I would ask how many here would intend to testify in favor on LB653? We have one. Do we have anyone testifying in opposition? Do we have anyone testifying in a neutral capacity? Senator Harms, you're recognized to open on LB653, the Legislature Planning Committee. [LB16]

SENATOR HARMS: Pardon me? [LB653]

SENATOR WIGHTMAN: To create the...LB653, creating the planning committee.

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[LB653]

SENATOR HARMS: (Exhibits 5, 6, 7) I do have some handouts. My name is John, J-o-h-n, middle initial N. Harms, H-a-r-m-s. I represent the 48th Legislative District. I'm passing out an amendment to this bill. The bill that you got was really basically a shell, and this is more greater detail of where we want to go with the bill. I needed to work with some other senators so if you'd take a few minutes to look at that, I would appreciate it. I'm also going to, Senator Wightman, if I might, I'm going to pass this around and I'm going to leave it with you. Here is a Virginia report of a long-range plan. It's identified as probably the best planning state in the Union, the United States. And when you talk about planning, a lot of people don't understand or it's hard for them to comprehend and put their arms around what it would be like in a state. Okay? This is excellent, and this is why I would hope that we might eventually get--you can look at that, pass it around so you have some idea of basically what I'm... [LB653]

SENATOR WIGHTMAN: And you'll have a copy of that in your office if somebody wants to see it later. [LB653]

SENATOR HARMS: It's yours. You can have it. I have copies of it in my office so thank you very much. What this bill really does is it creates a long-range planning committee. Okay? And the reason that I have a high interest in this after being here for two years, going into my third year, it's really clear to me that this great state does not know where it's going. And I'm not being critical, I'm not being critical of anyone or the Governor or the Legislature, but we just don't. We have no planning, there are pockets of plans, but there's no long-term plan that addresses the issue that I think is important. We have a changing global economy. It's moving rapidly. And we're trying to struggle in this great state of how we can be competitive and how we can compete in this and how we can be a part of this. We have an aging population base, and I'm definitely one of those individuals that's aging. We have a migration of people out of the state. We have a migration of people from rural to urban America. And you know, while I hear all the problems but I don't hear any solutions to any of these issues. And I think if we're going to be successful in the future, you've got to put together a planning committee and you've got to begin long-range, strategic planning. This bill would do that. There's some flexibility in this bill because this bill would be driven by this council. You would have the responsibility to appoint the people. You would have the responsibility if you wanted to hire a consultant, which I would recommend for the first portion of this bill, portion of your planning process. But you have the opportunity to go ahead and address the issue. The people in the law, if it would become a law, that would be identified would be your Speaker, would be the chairman of this council, and chairman of the Appropriations Committee are three key components of a planning process. Now you have the right to plan...then you have the right to appoint whoever you would like to appoint to fulfill this. I have not put a number in there because I think that's starting to carve out where I don't think I should have that opportunity to do that. I think you should have the opportunity to

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mold this and to carve it the way that you want it to go. And so you could choose the number that you would like to have. When you would start out in this planning process, probably for the first year you're going to want to keep this contained within our own family, not that we're trying to hide anything, but we don't have a database to operate on. We don't have a database to even drive this state in a direction that we want to go. And that database and that research is important to us. There's a lot of things in our state, but we just haven't pulled those together. We have no way to compare ourselves with our neighbors. We have no way to compare ourselves with the United States. We have no way to compare ourselves, you know, nationally, internationally, however you want to look at it. We just don't have that kind of information. I've given you a separate sheet that shows you just a little bit and it's called "Developing a Statewide Strategic Plan for Nebraska." This is in greater detail than what the bill would be. This gives you a side bit of information that would tell you the kinds of things that you really need to be looking at, the kind of information you need to want to address to move forward. But we don't have really identified our demographics. We haven't identified our work force. We haven't identified wealth. I mean I could go on and on with the list that would begin to put the database together for this Legislature to begin to move forward into the future. And I will tell you a lot of people will think, you know, have said to me, you know, John, I'm not sure this is good because the economy is in controversy. I mean the economy is struggling. The national economy is in trouble. This is the time that you should do your planning. This is the very time that we should put ourself together and so when this economy starts to get better we ought to be moving now. We ought to know exactly where we're headed, what the direction should be, what we want to accomplish in this particular area. So basically that's what this plan is about and it would create a planning. You have the ability to do it. You have the power to do it. It would answer directly to you, and I think it's a great opportunity for us to move forward. And so I'd be happy to answer any questions. I know time is of important essence for you, so I'd be happy to answer anything you'd like to talk about. I will tell you there is a fiscal note to this bill. And I think for the first year or two you're going to want to bring a consultant in, and it would cost you that \$200,000. I've talked with some people who can come in and do this that do statewide planning. Other states are moving in this process. And if you look around America, the states that are in trouble are states that haven't done the planning. You know, and Nebraska has done well because we've been a conservative state, but we've got to now begin to go from where we are today into the future and build on that. I think there's great opportunities in ag and business and there are just some good things for us to pursue. So I will close with that. If you have any questions, I'd be happy to answer those questions for you. [LB653]

SENATOR WIGHTMAN: Thank you, Senator Harms. Senator Pahls. [LB653]

SENATOR PAHLS: Senator, I mean the concept has no arguments overall because I think we do need the planning. But I'm assuming right now like the Department of Economic Development, they have done their own strategic planning, I'm assuming,

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because I mean lots of businesses have done at their local, you know, level. I'm sure you...you're at the college you did strategic planning. You're looking at that's probably too piecemeal to be. [LB653]

SENATOR HARMS: You're going to want to bring in what plans you have available. But the key to this, Senator Pahls, is you want to make sure you control the data. You want to understand the data. You want to know what the data tells you because that's the basis that you're going to operate on. That's the foundation that you'll move forward on. And I'm sure they do have it, but you want to go into that maybe in a little greater depth. You want to make sure you understand what it tells us. And you see from this, what the neat thing about this would be is that then you can start changing, you can start crafting your legislation to take us in the direction that we need to go. Now planning is just a pathway. Planning is never in cement. Planning is where you can just turn wherever you have to turn. The economy may force you to change your directions. You may decide that we're headed in a direction we don't want to go. And there's one asset that we have that we're not using in this whole process, Senator Pahls, and that's University of Nebraska. The University of Nebraska has great potential in the research side of things to be able to bring raw data into a committee to help drive this ship. And we need to begin to address that issue. And I know that I've had some discussions, brief discussions with people from the university, and I think they'll be willing to probably do that. I don't know if I answered your question or not. Did I? [LB653]

SENATOR PAHLS: No, you did. [LB653]

SENATOR HARMS: You have to be careful of me. I like to get after the issues, and I don't mean to offend anyone so, okay. [LB653]

SENATOR WIGHTMAN: Thank you, Senator Pahls and Senator Harms. Any other questions? [LB653]

SENATOR HARMS: Well, you've been very kind. Thank you. [LB653]

SENATOR WIGHTMAN: Thank you. Other testifiers in favor. [LB653]

RON WITHEM: Senator Wightman, members of the Executive Board, I'm Ron Withem. That's R-o-n W-i-t-h-e-m, representing the University of Nebraska. I know your time is incredibly limited so I'd just indicate that University of Nebraska does believe in strategic planning. We do operate under a strategic plan. And Senator Pahls, who referenced President Milliken, has asked me specifically to come here today and let you know of our interest if the committee decides to go ahead to do this. We believe we have resources that would be beneficial to such a process in strategic planning, program effectiveness, policy analysis. With that, I think I'll just give you time to get on to your next bill. But we'd like to be partners with you when you go through with this. [LB653]

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SENATOR WIGHTMAN: Thank you. Any questions? Senator Pahls. [LB653]

SENATOR PAHLS: I have. What you're telling me is right now the university does have trained facilitators in strategic planning that they could actually...that would save us some money. [LB653]

RON WITHEM: Yeah. I'm not sure exactly how much you want to rely upon the university. We do have people, particularly at the college of public affairs community service at the University of Nebraska-Omaha that do strategic planning for governmental units. That's how I got to know some of the people when I was in the Legislature. [LB653]

SENATOR PAHLS: Because I know some of these consultants who I've dealt with in the past, they come big bucks behind them. [LB653]

RON WITHEM: Yeah, and I'd be careful. We're not here trolling for additional appropriations to do this, but there will be an expense involved, but it might be a more economical sort of thing than other individuals. [LB653]

SENATOR PAHLS: Thank you. [LB653]

RON WITHEM: Thank you. [LB653]

SENATOR WIGHTMAN: Any other questions? Thank you. Anybody else testifying in favor? In opposition? In a neutral capacity? Senator Harms. [LB653]

SENATOR HARMS: Thank you. I'd like to just make some closing statements. I hope that you'll give it some real thought. I would recommend to you that as you look at this, until you get your database put together that you bring someone in who does state planning. And I have some names of people if you want to pursue that, that could help you. Then after that, you can really...once you understand that database and you know for sure where you're going to go, then you can bring the university and other people in to be your players to help you move forward. And thank you very much for allowing me to come before you. [LB653]

SENATOR WIGHTMAN: Thank you, Senator Harms. That concludes the hearing on LB653. LB620, I am the introducer of that bill so I will abandon my chair and Senator Nelson will chair the rest of this hearing. [LB653]

SENATOR NELSON: Thank you, Senator Wightman. Senator Wightman will open on LB620. And as he is getting ready, can we have a show of hands of those planning to testify for the bill. One. Anyone that plans to testify against the bill? Is there anyone who

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will testify in a neutral capacity? All right, thank you. Senator Wightman, you may proceed with your opening. [LB620]

SENATOR WIGHTMAN: Thank you, Senator Nelson, members of the Executive Board. For the record, my name is John Wightman, spelled J-o-h-n W-i-g-h-t-m-a-n. I'm here today to introduce LB620. I introduce this bill as a follow up to action taken by the 2008 Executive Board prior to the time that I sat on it. Briefly, let me give you some background information that led up to the board's 2008 decision. In 1992, the Legislature established a performance audit function within the legislative branch and assigned responsibility for conducting performance audits through the Legislative Research Division. The Director of Research was charged with managing the performance audit process, along with the office's historical functions of providing research to the Legislature and overseeing the legislative reference library. In 2006, a separate position of Legislative Auditor was created and the Legislative Research Division became the Office of Legislative Audit and Research. The Director of Research retained supervisory authority over all office staff except the auditors. The Legislative Auditor became the supervisor of the audit staff. However, the research and audit function remained under one budget program administered by the Director of Research who in turn consulted with the Legislative Auditor in preparing the budget. In 2008, the Performance Audit section underwent an independent professional peer review that recommended the audit function become freestanding and organizationally independent. Last October the Executive Board approved a request from the Performance Audit Committee to support the recommendation that the Legislature's research and audit functions be separated. I introduced LB620 to follow through with the Executive Board decisions made last year. In summary, LB620 would allow the Office of Legislative Audit and Research to be organized under separate offices for budgetary and all other purposes. Separating these offices is not expected to result in an increase in staff or operating costs. They will continue to operate in the same space and will share certain equipment as they do now. Before I introduced the bill, I visited with both the Legislative Audit and Research and the Performance Audit Committees and was assured that we could do this with no increase in the budget. I think it will be up to the Appropriations Committee down the road to make sure that there isn't an increase, at least until at such time as it appears to be absolutely necessary because, as all of you know, dollars are at a premium these days. So as a result, we have the assurance that there will be no additional expenses. They think it's important. I think both branches for confidentiality purposes, confidentiality does become an issue with regard to both organizations or both branches. So I would appreciate your support to advance LB620. I will be happy to answer any questions you might have. But I also have here Cynthia Johnson and Martha Carter representing the two branches, and they're here to answer questions if necessary. So with that, I'll conclude my opening remarks and try to answer any questions. I know Senator Harms is here who is Chair of the Performance Audit Committee and may be better able to answer those questions than I, but I will take a stab at them. [LB620]

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SENATOR NELSON: Senator Fischer, do you have a question? [LB620]

SENATOR FISCHER: Yes. Thank you, Senator Nelson. Senator Wightman, so why do we want to do this? [LB620]

SENATOR WIGHTMAN: Well, I think because of the confidentiality in part. That some of the performance audit is confidential and probably should not be...the information should not be made available to the Office of Legislative Audit and Research. There may be some vice versa confidentiality problems as well. I think that's one of the issues. I'm here because the Executive Committee before I was a part of it said they would support this. So perhaps someone else can better answer...give more details on why we might want to do this than I, but confidentiality is certainly a major part of it. And we are going to be getting into redistricting, which Legislative Audit and Research has a lot to do with that issue. And there will be...we say there will be no expenses, but there are always expenses in connection with redistricting, which we're going to have both on the Legislature and even probably...well, we will certainly have redistricting with regard to our congressional districts. Since I'm only starting my third year here, I'm not sure where all we go with regard to this redistricting, but I assume there are other redistricting issues as well. So there probably will be some temporary growth in the policy research. [LB620]

SENATOR FISCHER: Okay, thank you. [LB620]

SENATOR NELSON: Are there other questions for Senator Wightman? If not, thank you, Senator Wightman. [LB620]

SENATOR WIGHTMAN: Thank you. [LB620]

SENATOR NELSON: Are there others to testify for LB620? Senator Harms. [LB620]

SENATOR HARMS: (Exhibit 8) Thank you. My name is John, J-o-h-n, middle initial N. Harms, H-a-r-m-s, represent the 48th Legislative District. I'm here really as a Chair today of the Performance Audit Committee. You know, because of the time and I think that Senator Wightman did an excellent job, there's no use, I don't think, going over this information. So what I would like to do, if it would be all right, is just give you this testimony. Probably I have some scribbling along the side, but we can clean that up for you, but I'll leave that as a matter of record for you because it's basically a lot of things that Senator Wightman has said. There's no use of us repeating that. I guess to answer your question, the best thing I would suggest, Senator Fischer, just go down and take a look at the room, where they are housed. Okay? And you'll see they have some barriers there that create some issues for them. Everybody in the world can see them when they come in. And I guess I never would have understood this. At this point in my life, I didn't

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have some experiences that led me to believe that you've got to be able to have people have the freedom to come in and not know...and their colleagues or their friends not know that they're coming in to have this discussion. In talking with Martha, she has indicated to me--and correct me, Martha, if I'm wrong--that there are places they have to go and have coffee someplace just to get out of that area so they can have a frank conversation. And the last thing you want to do is to go over and somebody else pick up on it, and it just creates a real bad issue. And the Performance Audit Committee, you know, they deal with some really sensitive issues here. And they're going in, and as soon as people know that they're coming, there's a lot of fear in this whole process. And people really are concerned. And the one thing you want to have is, you know, strictly make it confidential as possible and make it as easy as possible. But I would surely suggest you go down and let Martha give you a tour. And I think then it's a lot easier to probably understand. So, Senator Nelson, if that's okay, I'd like to leave this just as a matter of record and then we can clean it up for you. But that way we don't have to go over this. Okay? [LB620]

SENATOR NELSON: All right. We will accept that and probably make copies for the members if that's all right. [LB620]

SENATOR HARMS: Yeah, that's fine. [LB620]

SENATOR NELSON: Senator Flood. [LB620]

SENATOR FLOOD: Thank you, Senator Nelson. And as a member of the Performance Audit Committee and as chairman, you are also probably aware that in a recent peer review of the Performance Audit Committee, those auditors that were auditing our auditors from out of state determined that the collocation of the Research Office and the Audit Office did present a concern as it relates to the auditors in our division of performance audit conducting their business in accordance with the standards that we adhere to. [LB620]

SENATOR HARMS: That's correct and that's really what brought the focus in on these two issues is what this peer review said about us. And what they also found, by the way, is that our auditors do an outstanding job above and beyond. They've met all the standards that you need to have way beyond what they would expect. It's just the fact they don't have the confidentiality that they need to have so. And you're welcome to look at this. [LB620]

SENATOR NELSON: Senator Fischer. [LB620]

SENATOR FISCHER: Thank you, Senator Nelson. It sounds like we need a different office, but office space is a problem. So if the office space is the problem, can't we look at the room situation that we have and look for new offices? Or do you think we really

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need to have two separate divisions here? [LB620]

SENATOR HARMS: I think you need to have two separate divisions. It's not unusual for states to do this. In the research that I've done, and I've looked at other states, do the same thing. They separate them out in most cases. So the room is an issue, but I'll tell you now there is no place to place them and it would be expensive. And right now being on Appropriations Committee, I really have a good understanding, as well as three of my colleagues in this room, what it's going to be like so. [LB620]

SENATOR FISCHER: Okay, thank you. [LB620]

SENATOR HARMS: Thank you. [LB620]

SENATOR NELSON: I have a question. Do I understand we would just use that space and just divide it with a partition of some sort? [LB620]

SENATOR HARMS: We already have that, and that's what creates the problem. We have dividers there, but you really don't have the privacy that you need to have. You know, really Martha needs to have a place where she can have a private conversation or bring her staff together and do the teaming over the issues and address the issue where that stuff doesn't get away from them and get out to the public too quickly. It's really sensitive, and I think in time we'll get there. [LB620]

SENATOR NELSON: Senator Wightman. [LB620]

SENATOR WIGHTMAN: As I understood it, though, initially we weren't going to create any additional office space. We would leave them in the same office. That might come about at a later date, but right now in order to have no fiscal impact, we probably would leave them in the same office. I think that they're nodding their head. [LB620]

SENATOR HARMS: No the question is move. We don't want to do any of the remodeling at this point because of the money. The real issue right now for them will be just get their budget separated out, making sure that we order the accounting office to separate them out so they can do their own accounting, have a better control over their own budget. Now it's just a sub underneath the Research, and I don't think that's where it needs to be. So... [LB620]

SENATOR WIGHTMAN: Even putting together a budget creates some confidentiality problems as they discuss amongst themselves. [LB620]

SENATOR HARMS: Yeah, well, that's why it's important to do this, yeah. That's correct. [LB620]

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SENATOR NELSON: Senator Flood. [LB620]

SENATOR FLOOD: Thank you, Senator Nelson. Senator Harms, how many private offices are in that area currently in Research? [LB620]

SENATOR HARMS: You know, I don't know for sure. I think there's six. [LB620]

SENATOR FLOOD: I mean how many offices are there with a door that closes with four walls? [LB620]

SENATOR HARMS: We don't have any, I don't think, do you? [LB620]

CYNTHIA JOHNSON: There is one. [LB620]

SENATOR HARMS: Yeah. [LB620]

CYNTHIA JOHNSON: Although it's my understanding when the Legislature initially took that space over there... [LB620]

SENATOR NELSON: You better step up to the microphone, Cynthia Johnson. [LB620]

SENATOR WIGHTMAN: Why don't you identify yourself. [LB620]

CYNTHIA JOHNSON: I will. I'm Cynthia Johnson, Director of Research. There is one office with a door on it, which is the office that I use and have used since '91 I guess. At the other end of the office, there is a door that leads into some other space that I've never seen that was apparently supposed to be the Legislature's space initially. It is now attached to the Supreme Court. When...initially what happened was...actually I don't know what happened. I think it was squatter's rights. I think they kind of moved their stuff in there. [LB620]

SENATOR FLOOD: So there is only one office that you know of right now. [LB620]

CYNTHIA JOHNSON: Right now. Now if you wanted to go ask them to see...I've never wanted to go in there and ask them because I thought they'd get suspicious (laugh) so I've never gone and asked to see that space. [LB620]

SENATOR FLOOD: Well, as a member of the Executive Council, why don't you go find out what's on the other side of the door and report back within seven days. (Laughter) [LB620]

CYNTHIA JOHNSON: Thank you. I'll tell them. Oh, one thing I would want to clarify, too, Senator Harms talks a lot about the confidentiality of the performance audit section

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which is absolutely true. We have a similar and equal need for confidentiality on the research side, and that's something that we jealously guard on both sides of the office, not just the performance side, performance audit. So when you come in and ask or your staff comes in, we don't...we keep that very confidential in terms of what we're doing. So there are issues on both sides. But that deals with the space issue and not the budgetary issue. [LB620]

SENATOR FLOOD: That answers my question. Thank you. [LB620]

CYNTHIA JOHNSON: Okay. [LB620]

SENATOR NELSON: Thank you, Ms. Johnson. [LB620]

CYNTHIA JOHNSON: Sure. [LB620]

SENATOR NELSON: Oh, did you have a question, Senator? [LB620]

SENATOR WIGHTMAN: No, scratching my head. [LB620]

SENATOR NELSON: Is there anyone else testifying for LB620? Is there anyone in opposition? Is there anyone testifying in a neutral capacity? Senator Wightman, do you have a closing? [LB620]

SENATOR WIGHTMAN: I'll waive closing. [LB620]

SENATOR NELSON: All right. Senator Wightman waives his close and we will close the hearing then on LB620, and I will return control to Senator Wightman. [LB620]

SENATOR WIGHTMAN: Before we adjourn, just to let you know, we do have an Executive Session set for Wednesday, is that right, yeah at 8:15. And we will go as far as we can on the bills and the resolutions as far as what action we're going to take. So we may not be able to finish it. You will not be here? []

SENATOR FLOOD: I have to be (inaudible) on a different matter. []

SENATOR WIGHTMAN: Thank you. With that, we are adjourned. []

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Disposition of Bills:

LB16 - Placed on General File with amendments.
LB653 - Placed on General File with amendments.
LB620 - Placed on General File.

Chairperson

Committee Clerk